

§ 42.305

28 CFR Ch. I (7–1–01 Edition)

wish to refer to recruitment techniques suggested in revised order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 41 CFR 60–2.24(e).

(h) Plan for dissemination of the applicant's Equal Employment Opportunity Program to all personnel, applicants and the general public. As appropriate, recipients may wish to refer to the recommendations for dissemination of policy suggested in revised order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 41 CFR 60–2.21.

(i) Designation of specified personnel to implement and maintain adherence to the equal employment opportunity program and a description of their specific responsibilities suggested in revised order No. 4 of the Office of Federal Contract Compliance, U.S. Department of Labor, found at 41 CFR 60–2.22.

§ 42.305 Recordkeeping and certification.

The equal employment opportunity program and all records used in its preparation shall be kept on file and retained by each recipient covered by these guidelines for subsequent audit or review by responsible personnel of the cognizant State planning agency or the LEAA. Prior to the authorization to fund new or continuing programs under the Omnibus Crime Control and Safe Streets Act of 1968, the recipient shall file a certificate with the cognizant State planning agency or with the LEAA Office of Civil Rights Compliance stating that the equal employment opportunity program is on file with the recipient. This form of the certification shall be as follows:

I, _____ (person filing the application) certify that the _____ (criminal justice agency) has formulated an equal employment program in accordance with 28 CFR 42.301, et seq., subpart E, and that it is on file in the Office of _____ (name), _____ (address), _____ (title), for review or audit by officials of the cognizant State planning agency or the Law Enforcement Assistance Administration as required by relevant laws and regulations.

The criminal justice agency created by the Governor to implement the Safe Streets Act within each State shall certify that it requires, as a condition

of the receipt of block grant funds, that recipients from it have executed an Equal Employment Opportunity Program in accordance with this subpart, or that, in conformity with the terms and conditions of this regulation no equal employment opportunity programs are required to be filed by that jurisdiction.

§ 42.306 Guidelines.

(a) Recipient agencies are expected to conduct a continuing program of self-evaluation to ascertain whether any of their recruitment, employee selection or promotional policies (or lack thereof) directly or indirectly have the effect of denying equal employment opportunities to minority individuals and women.

(b) Equal employment program modification may be suggested by LEAA whenever identifiable referral or selection procedures and policies suggest to LEAA the appropriateness of improved selection procedures and policies. Accordingly, any recipient agencies falling within this category are encouraged to develop recruitment, hiring or promotional guidelines under their equal employment opportunity program which will correct, in a timely manner, any identifiable employment impediments which may have contributed to the existing disparities.

§ 42.307 Obligations of recipients.

The obligation of those recipients subject to these guidelines for the maintenance of an equal employment opportunity program shall continue for the period during which the LEAA assistance is extended to a recipient or for the period during which a comprehensive law enforcement plan filed pursuant to the Safe Streets Act is in effect within the State, whichever is longer, unless the assurances of compliance, filed by a recipient in accordance with § 42.204(a)(2), specify a different period.

§ 42.308 Noncompliance.

Failure to implement and maintain an equal employment opportunity program as required by these guidelines shall subject recipients of LEAA assistance to the sanctions prescribed by the

Department of Justice

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Safe Streets Act and the equal employment opportunity regulations of the Department of Justice. (See 42 U.S.C. 3757 and 28 CFR 42.207.)

Subpart F—Coordination of Enforcement of Non-discrimination in Federally Assisted Programs

AUTHORITY: Executive Order 12250.

SOURCE: Order No. 670-76, 41 FR 52669, Dec. 1, 1976, unless otherwise noted.

§ 42.401 Purpose and application.

The purpose of this subpart is to insure that federal agencies which extend financial assistance properly enforce title VI of the Civil Rights Act of 1964 and similar provisions in federal grant statutes. Enforcement of the latter statutes is covered by this subpart to the extent that they relate to prohibiting discrimination on the ground of race, color or national origin in programs receiving federal financial assistance of the type subject to title VI. Responsibility for enforcing title VI rests with the federal agencies which extend financial assistance. In accord with the authority granted the Attorney General under Executive Order 12250, this subpart shall govern the respective obligations of federal agencies regarding enforcement of title VI. This subpart is to be used in conjunction with the 1965 Attorney General Guidelines for Enforcement of title VI, 28 CFR 50.3.

[Order No. 670-76, 41 FR 52669, Dec. 1, 1976, as amended by Order No. 960-81, 46 FR 52357, Oct. 27, 1981]

§ 42.402 Definitions.

For purpose of this subpart:

(a) *Title VI* refers to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4. Where appropriate, this term also refers to the civil rights provisions of other federal statutes to the extent that they prohibit discrimination on the ground of race, color or national origin in programs receiving federal financial assistance of the type subject to title VI itself.

(b) *Agency or federal agency* refers to any federal department or agency

which extends federal financial assistance of the type subject to title VI.

(c) *Program* refers to programs and activities receiving federal financial assistance of the type subject to title VI.

(d) *Assistant Attorney General* refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(e) Where designation of persons by race, color or national origin is required, the following designations shall be used:

(1) *Black, not of Hispanic Origin.* A person having origins in any of the black racial groups of Africa.

(2) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

(3) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(4) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

(5) *White, not of Hispanic Origin.* A person having origins in any of the original people of Europe, North Africa, or the Middle East. Additional subcategories based on national origin or primary language spoken may be used where appropriate, on either a national or a regional basis. Paragraphs (e)(1) through (e)(5) of this section, inclusive, set forth in this section are in conformity with the OMB Ad Hoc Committee on Race/Ethnic Categories' recommendations. To the extent that said designations are modified by the OMB Ad Hoc Committee, paragraphs (e)(1) through (e)(5) of this section, inclusive, set forth in this section shall be interpreted to conform with those modifications.

(f) *Covered employment* means employment practices covered by title VI. Such practices are those which:

(1) Exist in a program where a primary objective of the federal financial